



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB3283

Introduced 2/14/2014, by Sen. Donne E. Trotter

#### SYNOPSIS AS INTRODUCED:

20 ILCS 505/7

from Ch. 23, par. 5007

Amends the Children and Family Services Act. Expands the definition of "relative" to include a fictive kin. Defines "fictive kin" to mean any individual, whether related or unrelated by birth or marriage, who is shown to have close personal or emotional ties with the child or the child's family prior to the child's placement with the individual. Requires a fictive kin with whom a child is placed to apply for licensure as a foster family home pursuant to the Child Care Act of 1969 within 6 months of the child's placement with the fictive kin. Provides that by January 1, 2015, the Department of Children and Family Services shall promulgate rules establishing criteria and standards for placement, identification, and licensure of fictive kin.

LRB098 18961 KTG 54109 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Children and Family Services Act is amended  
5 by changing Section 7 as follows:

6 (20 ILCS 505/7) (from Ch. 23, par. 5007)

7 Sec. 7. Placement of children; considerations.

8 (a) In placing any child under this Act, the Department  
9 shall place the child, as far as possible, in the care and  
10 custody of some individual holding the same religious belief as  
11 the parents of the child, or with some child care facility  
12 which is operated by persons of like religious faith as the  
13 parents of such child.

14 (a-5) In placing a child under this Act, the Department  
15 shall place the child with the child's sibling or siblings  
16 under Section 7.4 of this Act unless the placement is not in  
17 each child's best interest, or is otherwise not possible under  
18 the Department's rules. If the child is not placed with a  
19 sibling under the Department's rules, the Department shall  
20 consider placements that are likely to develop, preserve,  
21 nurture, and support sibling relationships, where doing so is  
22 in each child's best interest.

23 (b) In placing a child under this Act, the Department may

1 place a child with a relative if the Department determines that  
2 the relative will be able to adequately provide for the child's  
3 safety and welfare based on the factors set forth in the  
4 Department's rules governing relative placements, and that the  
5 placement is consistent with the child's best interests, taking  
6 into consideration the factors set out in subsection (4.05) of  
7 Section 1-3 of the Juvenile Court Act of 1987.

8 When the Department first assumes custody of a child, in  
9 placing that child under this Act, the Department shall make  
10 reasonable efforts to identify and locate a relative who is  
11 ready, willing, and able to care for the child. At a minimum,  
12 these efforts shall be renewed each time the child requires a  
13 placement change and it is appropriate for the child to be  
14 cared for in a home environment. The Department must document  
15 its efforts to identify and locate such a relative placement  
16 and maintain the documentation in the child's case file.

17 If the Department determines that a placement with any  
18 identified relative is not in the child's best interests or  
19 that the relative does not meet the requirements to be a  
20 relative caregiver, as set forth in Department rules or by  
21 statute, the Department must document the basis for that  
22 decision and maintain the documentation in the child's case  
23 file.

24 If, pursuant to the Department's rules, any person files an  
25 administrative appeal of the Department's decision not to place  
26 a child with a relative, it is the Department's burden to prove

1 that the decision is consistent with the child's best  
2 interests.

3 When the Department determines that the child requires  
4 placement in an environment, other than a home environment, the  
5 Department shall continue to make reasonable efforts to  
6 identify and locate relatives to serve as visitation resources  
7 for the child and potential future placement resources, except  
8 when the Department determines that those efforts would be  
9 futile or inconsistent with the child's best interests.

10 If the Department determines that efforts to identify and  
11 locate relatives would be futile or inconsistent with the  
12 child's best interests, the Department shall document the basis  
13 of its determination and maintain the documentation in the  
14 child's case file.

15 If the Department determines that an individual or a group  
16 of relatives are inappropriate to serve as visitation resources  
17 or possible placement resources, the Department shall document  
18 the basis of its determination and maintain the documentation  
19 in the child's case file.

20 When the Department determines that an individual or a  
21 group of relatives are appropriate to serve as visitation  
22 resources or possible future placement resources, the  
23 Department shall document the basis of its determination,  
24 maintain the documentation in the child's case file, create a  
25 visitation or transition plan, or both, and incorporate the  
26 visitation or transition plan, or both, into the child's case

1 plan. For the purpose of this subsection, any determination as  
2 to the child's best interests shall include consideration of  
3 the factors set out in subsection (4.05) of Section 1-3 of the  
4 Juvenile Court Act of 1987.

5 The Department may not place a child with a relative, with  
6 the exception of certain circumstances which may be waived as  
7 defined by the Department in rules, if the results of a check  
8 of the Law Enforcement Agencies Data System (LEADS) identifies  
9 a prior criminal conviction of the relative or any adult member  
10 of the relative's household for any of the following offenses  
11 under the Criminal Code of 1961 or the Criminal Code of 2012:

- 12 (1) murder;
- 13 (1.1) solicitation of murder;
- 14 (1.2) solicitation of murder for hire;
- 15 (1.3) intentional homicide of an unborn child;
- 16 (1.4) voluntary manslaughter of an unborn child;
- 17 (1.5) involuntary manslaughter;
- 18 (1.6) reckless homicide;
- 19 (1.7) concealment of a homicidal death;
- 20 (1.8) involuntary manslaughter of an unborn child;
- 21 (1.9) reckless homicide of an unborn child;
- 22 (1.10) drug-induced homicide;
- 23 (2) a sex offense under Article 11, except offenses  
24 described in Sections 11-7, 11-8, 11-12, 11-13, 11-35,  
25 11-40, and 11-45;
- 26 (3) kidnapping;

- 1 (3.1) aggravated unlawful restraint;
- 2 (3.2) forcible detention;
- 3 (3.3) aiding and abetting child abduction;
- 4 (4) aggravated kidnapping;
- 5 (5) child abduction;
- 6 (6) aggravated battery of a child as described in
- 7 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05;
- 8 (7) criminal sexual assault;
- 9 (8) aggravated criminal sexual assault;
- 10 (8.1) predatory criminal sexual assault of a child;
- 11 (9) criminal sexual abuse;
- 12 (10) aggravated sexual abuse;
- 13 (11) heinous battery as described in Section 12-4.1 or
- 14 subdivision (a) (2) of Section 12-3.05;
- 15 (12) aggravated battery with a firearm as described in
- 16 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or
- 17 (e) (4) of Section 12-3.05;
- 18 (13) tampering with food, drugs, or cosmetics;
- 19 (14) drug-induced infliction of great bodily harm as
- 20 described in Section 12-4.7 or subdivision (g) (1) of
- 21 Section 12-3.05;
- 22 (15) aggravated stalking;
- 23 (16) home invasion;
- 24 (17) vehicular invasion;
- 25 (18) criminal transmission of HIV;
- 26 (19) criminal abuse or neglect of an elderly or

1 disabled person as described in Section 12-21 or subsection  
2 (b) of Section 12-4.4a;

3 (20) child abandonment;

4 (21) endangering the life or health of a child;

5 (22) ritual mutilation;

6 (23) ritualized abuse of a child;

7 (24) an offense in any other state the elements of  
8 which are similar and bear a substantial relationship to  
9 any of the foregoing offenses.

10 For the purpose of this subsection, "relative" shall  
11 include any person, 21 years of age or over, other than the  
12 parent, who (i) is currently related to the child in any of the  
13 following ways by blood or adoption: grandparent, sibling,  
14 great-grandparent, uncle, aunt, nephew, niece, first cousin,  
15 second cousin, godparent, great-uncle, or great-aunt; or (ii)  
16 is the spouse of such a relative; or (iii) is the child's  
17 step-father, step-mother, or adult step-brother or  
18 step-sister; or (iv) is a fictive kin; "relative" also includes  
19 a person related in any of the foregoing ways to a sibling of a  
20 child, even though the person is not related to the child, when  
21 the child and its sibling are placed together with that person.  
22 For children who have been in the guardianship of the  
23 Department, have been adopted, and are subsequently returned to  
24 the temporary custody or guardianship of the Department, a  
25 "relative" may also include any person who would have qualified  
26 as a relative under this paragraph prior to the adoption, but

1 only if the Department determines, and documents, that it would  
2 be in the child's best interests to consider this person a  
3 relative, based upon the factors for determining best interests  
4 set forth in subsection (4.05) of Section 1-3 of the Juvenile  
5 Court Act of 1987. A relative with whom a child is placed  
6 pursuant to this subsection may, but is not required to, apply  
7 for licensure as a foster family home pursuant to the Child  
8 Care Act of 1969; provided, however, that as of July 1, 1995,  
9 foster care payments shall be made only to licensed foster  
10 family homes pursuant to the terms of Section 5 of this Act.

11 Notwithstanding any other provision under this subsection  
12 to the contrary, a fictive kin with whom a child is placed  
13 pursuant to this subsection shall apply for licensure as a  
14 foster family home pursuant to the Child Care Act of 1969  
15 within 6 months of the child's placement with the fictive kin.  
16 By January 1, 2015, the Department shall promulgate rules  
17 establishing criteria and standards for placement,  
18 identification, and licensure of fictive kin.

19 For purposes of this subsection, "fictive kin" means any  
20 individual, whether related or unrelated by birth or marriage,  
21 who is shown to have close personal or emotional ties with the  
22 child or the child's family prior to the child's placement with  
23 the individual.

24 (c) In placing a child under this Act, the Department shall  
25 ensure that the child's health, safety, and best interests are  
26 met. In rejecting placement of a child with an identified



1 relative, the Department shall ensure that the child's health,  
2 safety, and best interests are met. In evaluating the best  
3 interests of the child, the Department shall take into  
4 consideration the factors set forth in subsection (4.05) of  
5 Section 1-3 of the Juvenile Court Act of 1987.

6 The Department shall consider the individual needs of the  
7 child and the capacity of the prospective foster or adoptive  
8 parents to meet the needs of the child. When a child must be  
9 placed outside his or her home and cannot be immediately  
10 returned to his or her parents or guardian, a comprehensive,  
11 individualized assessment shall be performed of that child at  
12 which time the needs of the child shall be determined. Only if  
13 race, color, or national origin is identified as a legitimate  
14 factor in advancing the child's best interests shall it be  
15 considered. Race, color, or national origin shall not be  
16 routinely considered in making a placement decision. The  
17 Department shall make special efforts for the diligent  
18 recruitment of potential foster and adoptive families that  
19 reflect the ethnic and racial diversity of the children for  
20 whom foster and adoptive homes are needed. "Special efforts"  
21 shall include contacting and working with community  
22 organizations and religious organizations and may include  
23 contracting with those organizations, utilizing local media  
24 and other local resources, and conducting outreach activities.

25 (c-1) At the time of placement, the Department shall  
26 consider concurrent planning, as described in subsection (1-1)

1 of Section 5, so that permanency may occur at the earliest  
2 opportunity. Consideration should be given so that if  
3 reunification fails or is delayed, the placement made is the  
4 best available placement to provide permanency for the child.

5 (d) The Department may accept gifts, grants, offers of  
6 services, and other contributions to use in making special  
7 recruitment efforts.

8 (e) The Department in placing children in adoptive or  
9 foster care homes may not, in any policy or practice relating  
10 to the placement of children for adoption or foster care,  
11 discriminate against any child or prospective adoptive or  
12 foster parent on the basis of race.

13 (Source: P.A. 96-1551, Article 1, Section 900, eff. 7-1-11;  
14 96-1551, Article 2, Section 920, eff. 7-1-11; 97-1076, eff.  
15 8-24-12; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)